

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

BRIAN C. MARRQUIS,
Plaintiff,

v.

C.A. NO.: 04-30059-MAP

BERKSHIRE COMMUNITY COLLEGE, et al,
Defendants

PLAINTIFF'S SECOND AMENDED COMPLAINT

(COUNTS I –VII)

(as to all Defendants)

Plaintiff Marquis repeats the allegations contained in ¶¶s 1-29 inclusive as though pleaded herein.

Plaintiff moves to amend Plaintiff's complaint by adding the following:

(COUNT VIII-Violation of 42 U.S.C. § 1986)

(as to Defendants Blanchard, Board of Trustees & BCC)

30. Plaintiff Marquis repeats the allegations contained in paragraphs 1 through 29, inclusive, as set forth in the first count above.

31. On or about 21 January 2004 and for all times thereafter Defendants Blanchard, board of trustees, and BCC had acutely been made aware, through numerous e-mails and a circularly correspondence, in their official and individual capacities, with the power and ability to prevent or aid Plaintiff Marquis, did neglect, refuse to prevent or attempt to aid him when the college egregiously took away his financial aid, depriving him of his

inherent constitutional right to substantive and/or procedural due process, consequently leading to an abrupt college withdrawal.

32. Defendants Blanchard, the board of trustees and BCC had actual knowledge of a named, specific college official, within their control and custody, involved in the unlawful financial aid government taking.

33. With the inherent powers and abilities to either prevent, come to his aid, or, to intercede on his behalf, the Defendants did reverently nothing, remaining soundless, expressly or implicitly, in the way of communicating or otherwise its willingness to aid in the reinstatement of Plaintiff Marquis's financial aid.

34. By way of written correspondence from its counsel, Massachusetts Community Colleges General Counsel Kenneth A. Tashjy, Defendants Blanchard, board of trustees, and BCC rejected a written request by Plaintiff Marquis to appear and speak before the board's next regularly scheduled public meeting regarding the unlawful financial aid taking.

35. In doing so, Defendants, with wanton malice and aforethought, not only deprived Plaintiff Marquis of his constitutional right to freedom of speech, but also soundly neglected heir statutory duty to prevent, aid, or come to his comfort.

WHEREFORE, Marquis respectfully request the following relief against Defendants:

1. Enjoin Defendants from any further constitutional violations;
2. Order injunctive and declaratory relief;
3. Monetary, retroactive, and prospective relief;
4. Reinstatement of his student financial aid;
5. Disallow and remove the Defendants' invocation of their Eleventh Amendment qualified immunity shield, under the *Ex Parte Young Doctrine*.

6. Award nominal, consequential, punitive and actual damages, costs, and pre-judgment interest to Marquis pursuant to counts I, II, II, IV, V, VI, VII, and VIII; and
7. Award such other relief as this Court deems just and proper.

MARQUIS REQUESTS A TRIAL ON ALL ISSUES SO TRIABLE

Dated: 11 August 2004

By: 

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